

# **Affidavit – Part 2**

## **EXHIBIT 5**

# McDermott Will & Emery

Boston Brussels Chicago Düsseldorf London Los Angeles Miami Munich  
New York Orange County Rome San Diego Silicon Valley Washington, D.C.  
Strategic alliance with MWE China Law Offices (Shanghai)

Katherine D. Kale  
Associate  
kkale@mwe.com  
212.547.5689

April 1, 2008

## **VIA ELECTRONIC MAIL AND FEDEX**

A. Baraka Scott, Esq.  
The Scott Firm  
55 Washington Street, Suite 705  
Brooklyn, NY 11201

Re: Edmund Bryan v. Memorial Sloan-Kettering Cancer Center  
Civil Action No.: 07 Civ. 7300 (SHS)

Dear Mr. Scott:

As you are aware, this firm represents defendant Memorial Sloan-Kettering Cancer Center (the "Center") in the above-referenced matter. We write to resolve a number of outstanding issues so that the parties may proceed with the upcoming depositions on April 14, 24 and 29, 2008. Moreover, as discovery is set to close on April 30, 2008, we will be forced to seek the Court's intervention if we do not receive assurances that these issues will be fully resolved by Friday, April 4, 2008.

### **Medical Authorization**

On March 27, 2008, you agreed to provide a medical authorization for treatment records from Plaintiff's psychiatrist Michael Murphy, M.D. However, to date, we have not received the signed authorization. Receipt of these records is necessary for the Center to question Plaintiff fully at his deposition, which is scheduled for April 14, 2008. If the Center cannot obtain these records in advance of such date, it will proceed with Plaintiff's deposition as scheduled and be forced to continue his deposition on a later date once these records are received. Please be advised that if Plaintiff fails to produce information relating to his purported damages and later seeks to rely on the same, the Center will seek to preclude Plaintiff from doing so.

### **Interrogatory Responses**

Defendant has yet to receive Plaintiff's interrogatory responses, which responses were due by no later than March 31, 2008. Please immediately furnish said responses so that they are received by counsel for the Center by no later than this Friday, April 4, 2008.

A. Baraka Scott, Esq.  
April 1, 2008  
Page 2

Document Responses

You previously indicated that there are responsive documents/video that will supplement Plaintiff's responses to Defendant's document requests. Please immediately produce such documents/video by no later than this Friday, April 4, 2008. Again, please be advised that if Plaintiff fails to produce information relating to his claims and later seeks to rely on the same, the Center will seek to preclude Plaintiff from doing so.

Settlement Discussions

You will recall that, at the parties' mid-discovery conference on March 14, 2008, Judge Stein directed the parties to put their settlement discussions in writing. Thus, on March 17, 2008, we sent you a letter setting forth the terms of the Center's settlement offer and requesting a written response by March 26, 2008. To date, we have not received any response to this offer. We ask that you immediately respond to the Center's settlement offer as directed by Judge Stein.

Thank you in advance for your attention to these matters.

Very truly yours,



Katherine D. Kale

## **EXHIBIT 6**

**Kale, Katherine**

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**From:** Kale, Katherine  
**Sent:** Friday, April 11, 2008 4:12 PM  
**To:** 'abscott@scottfirm.net'  
**Subject:** Bryan Deposition

Mr. Scott:

I am writing to confirm that Mr. Bryan's deposition will be held this Monday, April 14, 2008 beginning at 10:00 a.m. at our office located at 340 Madison Avenue (between 43rd and 44th). When you arrive at our office, check in with security in the lobby and then take the elevator to the 2nd floor where our main reception is located. Please contact me with any questions.

Best regards,  
Katherine

=====  
Katherine D. Kale, Esq.  
McDermott Will & Emery LLP  
340 Madison Avenue  
New York, New York 10173  
Tel: 212-547-5689  
Fax: 212-547-5444  
[kkale@mwe.com](mailto:kkale@mwe.com)

## **EXHIBIT 7**

**Kale, Katherine**

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**From:** A. Baraka Scott [abscott@scottfirm.net]  
**Sent:** Sunday, April 13, 2008 2:22 PM  
**To:** Kale, Katherine  
**Subject:** RE: Bryan Deposition

I am now checking this email.

I had the deposition scheduled for the 15th

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**A. Baraka Scott**  
**THE SCOTT FIRM**  
**55 Washington Street**  
**Suite 705**  
Brooklyn, New York 11201  
**718.852.7000 [Telephone]**  
**718.852.3302 [Fax]**

---

**From:** Kale, Katherine [mailto:KKale@mwe.com]  
**Sent:** Friday, April 11, 2008 4:12 PM  
**To:** abscott@scottfirm.net  
**Subject:** Bryan Deposition

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[kkale@mwe.com](mailto:kkale@mwe.com)

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## **EXHIBIT 8**

**Kale, Katherine**

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**From:** Kale, Katherine  
**Sent:** Sunday, April 13, 2008 2:58 PM  
**To:** 'abscott@scottfirm.net'  
**Cc:** Cohen, Joel  
**Subject:** RE: Bryan Deposition  
**Attachments:** 3.17.08 Letter to Scott (deposition).pdf; 4.1.08 Letter to Scott.pdf

Mr. Scott,

Mr. Bryan's deposition was noticed for tomorrow, April 14, 2008, and not April 15, 2008 as your email suggests. This was made clear in our March 17 letter to you, which is attached for your reference. You will see the letter clearly provides that if you could not make April 14, 2008, which is a date we previously discussed, you should notify us immediately. We received no response to the letter. Also attached is a subsequent letter dated April 1, 2008, which clearly provides (in numerous places) that Mr. Bryan's deposition is scheduled for April 14th. We received no response to our April 1 letter as well, and we further sent you an email on Friday, April 11th, confirming the April 14th deposition.

Now, today at 2:30 p.m., we are hearing for the first time that you may have a problem with April 14th. This is unacceptable for many reasons, but particularly since discovery is set to close this month and we cannot schedule Mr. Bryan's deposition on any other day. Making matters worse, we have scheduled four additional depositions, but as you know Mr. Bryan's deposition must come first. We expect that you contact Mr. Bryan and that the deposition go forward tomorrow **Monday, April 14, 2008 at 10:00 a.m.**, as scheduled.

Please confirm by no later than 6:00 p.m.

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**Subject:** RE: Bryan Deposition

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Best regards,  
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[kkale@mwe.com](mailto:kkale@mwe.com)

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Please visit <http://www.mwe.com/> for more information about our Firm.

## **EXHIBIT 9**

**Classic Reporting, Inc.**

13 West 36<sup>th</sup> Street, 4<sup>th</sup> Floor  
New York, New York 10018  
Phone 212-268-2590

<b>Katherine Kale, Esq.</b> <b>McDermott Will &amp; Emery, LLP</b> <b>340 Madison Avenue</b> <b>New York, New York</b>	<b>INVOICE</b>
	<b>Invoice Date 4-16-2008</b> <b>Invoice Number 041408</b>
	<b>Tax ID 11 2973317</b>

**In re: Bryan vs Memorial Sloan Kettering**

<b>4-14-2008 Cancellation of Deposition</b>	<b>175.00</b>
<b>DUE UPON RECEIPT</b>	<b>175.00</b>